

# **DISCLAIMER**

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## **PETITION OF**

**COLUMBIA GAS OF VIRGINIA, INC.**

**CASE NO. PUE020070**

**For a Declaratory Judgment**

## **HEARING EXAMINER'S RULING**

**April 3, 2002**

On January 17, 2002, Columbia Gas of Virginia, Inc. ("Columbia" or "Company") filed a petition for declaratory judgment ("Petition") with the State Corporation Commission ("Commission") requesting the Commission to declare, *inter alia*, that the Company has authority under Rate Schedules TS-1 and TS-2 to assess penalties and charges against customers who failed to comply with certain balancing service restrictions issued by the Company during the winter of 2000-01. Specifically, the Company requests that the Commission declare the Company has authority under Rate Schedules TS-1 or TS-2 to: (i) issue balancing service restrictions; (ii) restrict Columbia's customers' access to banked natural gas quantities; (iii) charge customers a Gas Daily commodity price for gas consumed in excess of their authorized daily volume during a balancing service restriction; (iv) assess a penalty of \$10.00 per Mcf for all gas used in excess of 102 percent of the customers' authorized daily volumes during a balancing service restriction; and (v) not waive penalties assessed against "habitual" offenders of its balancing service restrictions. The Company asserts that a declaratory judgment will afford relief to it and to its customers who received service from Columbia during the winter of 2000-01, and resolve any uncertainty regarding the Company's, as well as customers', rights under Rate Schedules TS-1 and TS-2. Columbia asserts that there is no other adequate remedy available to it.

On February 7, 2002, the Commission issued a Preliminary Order docketing the proceeding, requiring the Company to give public notice of its Petition, inviting interested parties to file responsive pleadings to the Petition or request a hearing on the issue, and assigning a Hearing Examiner to conduct further proceedings. The Order permitted Commission Staff to participate in the proceedings to the same extent as permitted by Rule 5 VAC 5-20-80 D of the Commission's Rules of Practice and Procedure. Numerous responses and several requests for a hearing have been received by the Commission. Therefore, I find that a procedural schedule and hearing date should now be set. Accordingly,

### **IT IS DIRECTED THAT:**

1) A public hearing shall be held on July 11, 2002, commencing at 10:00 a.m., in the Commission's Courtroom, Second Floor, Tyler Building, 1300 East Main Street, Richmond, Virginia 23219;

2) On or before April 22, 2002, Columbia shall file with the Clerk of the Commission an original and fifteen (15) copies of its testimony and exhibits supporting its Petition;

3) On or before May 13, 2002, any person desiring to participate as a Respondent, as defined in Rule 5 VAC 5-20-80 B of the Commission's Rules of Practice and Procedure ("Rules") shall file with the Clerk of the Commission an original and fifteen (15) copies of a Notice of Participation as provided in Rule 5 VAC 5-20-150. The Notice of Participation shall be sent to Joel H. Peck, Clerk of the Commission, c/o Document Control Center, P. O. Box 2118, Richmond, Virginia 23218, and shall reference Case No. PUE020070. Respondent shall also serve a copy upon counsel for Columbia, Kodwo Ghartey-Tagoe, Esquire, McGuireWoods LLP, One James Center, 901 E. Cary Street, Richmond, Virginia 23219; upon Commission Staff counsel, Sherry H. Bridewell, Senior Counsel, and Wayne N. Smith, Senior Counsel, State Corporation Commission, P. O. Box 1197, Richmond, Virginia 23218-1197; and other parties of record. The Notice of Participation shall be filed and served as required by Rules 5 VAC 5-20-140, and 5 VAC 5-20-150;

4) Pursuant to Rule 5 VAC 5-20-80 B the Notice of Participation shall set forth: (i) a precise statement of the interest of the Respondent; (ii) a statement of the specific action sought to the extent then known; and (iii) the factual and legal basis for the action. Any corporate entity or governmental entity that wishes to submit evidence, cross-examine witnesses, or otherwise participate as a Respondent must be represented by legal counsel in accordance with the requirements of Rule 5 VAC 5-20-30;

5) Within two (2) business days of receipt of any Notice of Participation, Columbia shall serve on each Respondent a copy of all materials, testimony and exhibits it has filed with the Commission;

6) Any person desiring to make a statement at the public hearing concerning the Petition need only appear in the Commission Courtroom at 9:45 a.m. on the day of the hearing and identify himself or herself as a public witness to the Commission's Bailiff. Individuals with disabilities who require an accommodation to participate in the hearing should contact the Commission at least seven (7) business days before the scheduled hearing date at 1-800-552-7945 (voice) or 1-804-371-9206 (TDD);

7) On or before May 21, 2002, each Respondent shall file with the Clerk of the Commission an original and fifteen (15) copies of the testimony and exhibits Respondent intends to present at the public hearing, and shall serve a copy on Columbia, Commission Staff, and all other Respondents;

8) On or before June 10, 2002, Staff shall file with the Clerk of the Commission an original and fifteen (15) copies of its testimony and exhibits, and shall also serve a copy upon counsel for the Company and upon each Respondent; and

9) On or before June 21, 2002, Columbia may file with the Clerk of the Commission an original and fifteen (15) copies of all testimony and exhibits it expects to introduce in rebuttal to all direct prefiled testimony and exhibits. On the same day, the Company shall

serve one copy of its testimony and exhibits upon the Commission Staff and all Respondents.

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Howard P. Anderson, Jr.  
Hearing Examiner